

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 \* \* \*

4 Ismael Padilla,

5 Plaintiff,

6 v.

7 Second Circuit Court of Appeals, *et al.*,

8 Defendants.  
9

Case No. 2:23-cv-01511-GMN-BNW

**Report and Recommendation**

10 Before the Court is Plaintiff's Motion for Summary Judgment, which also seeks an  
11 injunction. ECF No. 32. As this Court has explained to Plaintiff in previous orders, before any  
12 other action can be taken in this case, Plaintiff's complaint must survive screening. *See, e.g.*, ECF  
13 No. 27.

14 Despite this, Plaintiff requests relief in the form of summary judgment and an injunction.  
15 ECF No. 32. First, the Court notes that his motion is not legible. Second, as the Court has  
16 explained before, the Court cannot evaluate any motions until Plaintiff's complaint has survived  
17 screening. ECF No. 27. In screening his complaint, the Court dismissed his claims with leave to  
18 amend. ECF No. 34. Plaintiff has until June 22, 2024 to file his amended complaint. *Id.* If he  
19 chooses to file an amended complaint, the Court will screen it for colorable claims. Finally, the  
20 Court cannot grant Plaintiff's request for an injunction as it cannot determine, at this juncture,  
21 whether Plaintiff has a likelihood of success on the merits. *Winter v. Nat. Res. Def. Council, Inc.*,  
22 555 U.S. 7, 19 (2008) (explaining that courts must consider the following factors when  
23 determining whether to grant injunctive relief: (1) he is likely to succeed on the merits, (2) he is  
24 likely to suffer irreparable harm, (3) the balance of hardships tips in his favor, and (4) an  
25 injunction is in the public interest). As explained before, the Court still needs to screen his  
26 amended complaint and determine whether his allegations state a claim for relief. For this same  
27 reason, the Court cannot award Plaintiff summary judgment. *Celotex Corp. v. Catrett*, 477 U.S.

1 317, 322 (1986) (summary judgment is only proper where there is “no genuine issue as to any  
2 material fact”). The Court therefore recommends that the motion be denied.

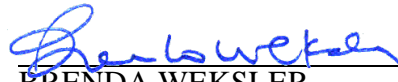
3 **IT IS THEREFORE RECOMMENDED** that Plaintiff’s Motion for Summary Judgment  
4 (ECF No. 32) be denied.

5 **IT IS FURTHER ORDERED** that Plaintiff’s deadline to submit an amended complaint  
6 is June 22, 2024.

7 **NOTICE**

8 This report and recommendation is submitted to the United States district judge assigned  
9 to this case under 28 U.S.C. § 636(b)(1). A party who objects to this report and recommendation  
10 may file a written objection supported by points and authorities within fourteen days of being  
11 served with this report and recommendation. Local Rule IB 3-2(a). Failure to file a timely  
12 objection may waive the right to appeal the district court’s order. *Martinez v. Ylst*, 951 F.2d 1153,  
13 1157 (9th Cir. 1991).

14  
15 DATED: May 28, 2024

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17 BREND A WEKSLER  
18 UNITED STATES MAGISTRATE JUDGE  
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